

Waltham Police Department

LEGAL PROCESS

CHAPTER 74

General Order Number: GO-01 2009

Effective Date: 01/2009, 01/2014; 5/2016; 5/2017

Accred Stand #: 74.1.2, 74.1.2, 74.1.3, 74.2.1, 74.3.1, 74.3.2

POLICY:

It is the policy of the Waltham Police Department to give strict attention to the documenting and serving of legal processes. An important function of law enforcement is the execution of legal process in support of the judicial function. Legal processes consist of summonses, subpoenas, arrest warrants, search warrants, and abuse orders relating to a Criminal case which are issued by any court of law within the Commonwealth; and which are sent, delivered, carried, or otherwise conveyed to our department for the purpose of being served or executed upon the person or place named within.

Since the functioning of the courts is affected by the prompt service of these documents and since the department has certain legal responsibilities regarding such service, it is necessary that the Records Unit personnel maintain precise and appropriate record keeping procedures to minimize potential litigation and liability.

The procedures outlined in this section are designed to ensure sufficiency of information, accuracy, timeliness, accessibility, and accountability in the service of legal processes. Any arrests made on a warrant must be backed up by documentation that some agency has that warrant in their possession, and that to the best of their knowledge it is still in effect, or that the warrant is active in the Warrant Management System (WMS). [74.1.3d]

PROCEDURES:

1. **RECORDS UNIT PERSONNEL:** Are responsible and accountable for the processing and recording of all legal processes for the department as described below. Unless otherwise noted, all records/logs are now computerized using Criminal History, Prosecution Management, Warrant, and Document Service Applications:
 - A. Legal processes for which we have the document in our possession, and service are to be executed on persons or places within the community;

- B. Legal processes in the possession of another agency (local, state, or federal);
 - C. Processes to be served outside of our normal jurisdiction;
 - D. Seizure of property or money according to Mass. Gen. Law, Chap. 94C § 47 (Property subject to forfeiture under the Controlled Substance Act) and Mass. Gen. Law, Chap. 276 § 3, (Disposition of property seized under a search warrant); [74.3.1]
 - E. Service of civil process under Mass. Gen. Law, Chap. 209A (Abuse Law) and under Mass. Gen. Law, Chap. 273A (orders of notice). [74.2.1]
2. **ACCESS TO RECORDS:** Members of the department shall have access to department criminal records twenty-four hours a day through computer access. Members shall comply with CORI laws. [74.1.3f]
 3. **RECORDING:** The receipt of the following documents shall be recorded in the appropriate computer application by records unit personnel: [74.1.3c]
 - A. WARRANTS - WARRANT APPLICATION
 - B. SUMMONSES - DOCUMENT SERVICE APPLICATION
 - C. SUBPOENA - DOCUMENT SERVICE APPLICATION
 - D. ABUSE ORDERS - ABUSE ORDER APPLICATION & NOTEBOOK
 - E. DISPOSITION OF CASES - OFFENDER HISTORY APPLICATION
 4. **INFORMATION TO BE RECORDED:** Computer records and notebooks shall contain the following information, if appropriate: [74.1.3c]
 - A. Date and time received;
 - B. Type of legal process (civil or criminal);
 - C. Nature of document (warrant summons etc., default, capias, etc.);
 - D. Source of document (issuing court, etc.);
 - E. Name of plaintiff, defendant, complainant, or respondent;
 - F. Officer assigned for service;
 - G. Date of assignment;
 - H. Court docket number (warrant number, etc.);
 - I. Date service due;
 - J. Offense;
 - K. Disposition (mailed, served, recalled, returned, or unserviceable).
 5. **RECORD ON THE EXECUTION OR ATTEMPTED SERVICE:** [74.3.1]Computer records shall contain the following information for the execution or attempted service of legal process documents:

- A. The date and time service was executed or attempted.
- B. The name of the officer executing or attempting service.
- C. The name of the person on whom the legal process was served or executed.
- D. The method of service or reason for non-service.
- E. The address of service or attempted service if not otherwise listed on the document.

6. **WARRANTS:[74.2.1],[74.3.1]**

- A. **DESCRIPTION:** Massachusetts Warrants are issued in two mediums, Paper and Electronic. Paper Warrants are prepared on paper. Electronic Warrants are entered into the Warrant Management System (WMS) of the Massachusetts Trial Courts, which exchanges data with the Department of Criminal Justice Information System (DCJIS). Statute (M.G.L. Chapter 276, sections 23A, 29, 30, 31, and 32). District courts may issue paper warrants during non-business hours and/or for special circumstances. For the purpose of this section, the term warrant shall include paper warrants and WMS warrant printouts.
- B. **PRIORITIZING OF WARRANTS:** Warrants that are received by the department shall be categorized according to the priority in which they shall be processed. Warrants that are issued for violent crimes, sex offenses, OUI, or violations of the Abuse Law shall have priority for service over warrants of a non-violent nature. Attempts to serve priority warrants should be made as soon as possible.
- C. **RENDITION:** The determination of whether the departments will rendite an individual shall be the responsibility of the Commanding Officer of the Investigation Division. (All decisions of this nature shall have the approval of the Chief of Police or Deputy Chief of Police and consultation with the District Attorney's Office.)
- D. **ARREST WARRANTS FOR WALTHAM RESIDENTS AS A RESULT OF WALTHAM POLICE INITIATION:** [74.2.1]Any arrest warrant which is received by the Records Unit to be served on a Waltham resident shall be processed in the following manner: [74.3.1]
 - 1. Records Unit personnel shall enter the paper warrant into the CJIS Computer. A computer entry shall be made in the Warrant Application for all warrants, and include the name of the case officer. [74.1.3a]
 - 2. Records Unit personnel shall then attach a Legal Document Service Report to the warrant and note the following information thereon:
 - a. Name and address of the defendant;
 - b. Date and time received by the Records Unit;
 - c. Warrant number, issuing court; and
 - d. Date to be returned to Records Unit.

The warrant shall then be delivered to the Commanding Officer - Platoon on Duty for service by the Patrol Division.

3. Warrants shall be served as follows: [74.2.1]

- b.** Sworn officers are to attempt service on warrants on no less than three different occasions and are to adhere to the Policy and Procedures entitled "ARREST," Chapter 70 in the Waltham Police Department Manual. **[74.3.2]** At a minimum, attempts to serve warrants shall be made on three different shifts (day, first, last) unless information received by the officers attempting service indicates that further attempts would be fruitless or that another time may be more appropriate.
- c.** No attempt of service or arrest on a WMS warrant shall be made without verification of the warrant in the Warrant Management System immediately prior to the attempt of service. Verification is having Operations print a hard copy of the warrant from the LEAPS computer. **[74.1.3d]**
- d.** Officers attempting to serve warrants are to make a concerted effort to serve such. If it is found that the subject of the warrant no longer lives at the given address, officers are to check with neighbors, landlords, Registry of Motor Vehicles, etc., to determine a new address. All pertinent information is to be documented on the arrest warrant service report and followed up if applicable.
- e.** If officers are successful in serving a warrant, they shall make the proper "return" and submit the warrant to the Commanding Officer - Platoon on Duty. The Commanding Officer - Platoon on Duty shall ensure that the Operations Computer Operator cancels or locates the warrant in the CJIS Computer. Records Unit personnel shall record the date of the arrest and the names of the arresting officers in the computerized warrant application. **[74.1.3e]**
- f.** When a warrant is issued to a member of the Investigation Division, the detective who obtains the warrant shall immediately notify the Records Unit of the warrant's existence. If, due to the sensitive nature of an investigation or emergency circumstances, such notification is deemed inappropriate, the Commanding Officer - Investigation Division shall be so advised and shall make the decision on when such notification shall be made.
- g.** Prior to service of any arrest warrant for a student attending a Waltham School, the Juvenile Officer(s)/SRO's shall be contacted to determine how service is to be made.

1. When a summons is received by our department for service in Waltham on a Waltham resident the following procedure shall be followed:
 - a. A computer entry shall be made in the Document Service Application including: date of issue, docket number, name, address, issuing department, date of court appearance.
 - b. The Records Clerks shall update the computerized criminal history record with the following information: name, residence, date of birth (if available), date of issue, docket number, offense, date of court appearance, issuing court. If additional information is available -such as social security number, occupation, alias, place of birth, mother, father, height, weight, complexion, color of eyes, color of hair, etc. it too shall be entered.
 - c. The Records Clerks shall note on the prosecution management application the following information; date of court appearance, name, docket (case) number, and offense. Computerized Disposition Sheets are generated by this application and shall be used by the prosecutors for proper case accountability and case dispositions.
 - d. If the summons is to be mailed to the defendant, an entry in the Document Service Application shall be made as such.
 - e. If the summons is to be served in hand or to be left at the last and usual place of residence, the Records Unit shall attach Form 74-2 to the summons and place it in the summons box for service.
 - f. When the summons is served, the officer making service shall make the return on the summons and return the summons to the Records Unit. Records Unit personnel shall note in the Document Service Application the date of service and the officer making service. They shall then return the summons to court. Additionally, and prior to court, the Records Clerk will scan the “74-2” form with the document that was served. [74.1.1, 74.1.2]
 - g. If a summons cannot be served for any reason (no longer at address, no such person, etc.), the officer attempting service shall complete the Legal Document Service Report (Form 74-2) and return it to the Records Unit. The summons shall be returned to court by Records Unit personnel.
 - h. In situations involving juvenile matters, both the juvenile and the parent or guardian shall receive a summons.

G. When a summons is to be served on a person residing outside the City of Waltham, the following procedure shall be followed:

1. It shall be processed in accordance with the procedures set forth in this policy.
2. The summons shall be mailed to the defendant's last and usual place of residence.
3. If circumstances require the summons to be delivered in hand, the Records Unit personnel shall mail the summons to the police department where the defendant resides, and served by them in the appropriate manner. If the summons has not been returned in a prescribed period of time, a follow-up letter shall be mailed to that department.
4. When the summons is returned to our department from other police jurisdictions, the following information shall be recorded in the Document Service Application: the date of service and the department making service on the summons. The Records Unit personnel shall then return the summons to court.

H. SUBPOENA'S FOR WITNESSES: Shall be processed in the following manner:

1. When a subpoena is received from court for service in Waltham on a Waltham resident or on a person working in Waltham, the following procedure shall be followed:
 - a. The following information shall be recorded in the Document Service Application, which will include the date of issue, docket number, name, address of witness, issuing department, defendant's name, officer serving subpoena, date to appear in court, and date of return of service.
 - b. If the subpoena is to be mailed to the witness, an entry in the Document Service Application shall be made indicating that it was mailed.
 - c. If the subpoena is to be served in hand or left at the last and usual place of residence, the Records Unit shall attach Form 74-2 to the summons and place it in the summons box for service. The subpoena shall be placed in the proper tray for service.
 - d. When the subpoena is served, the officer making service shall make the return on the subpoena. The Records Unit personnel shall note in the Document Service Application the date of service and the officer making service. Records Unit personnel shall then return the subpoena to court.

- e. If the subpoena cannot be served by the officer for any reason (no longer at address, no such person, etc.), the officer attempting service shall complete the Legal Document Service Report (Form 74-2) and return it to the Records Unit. The summons shall be returned to court by the Records Unit personnel.

I. When subpoenas are to be served on people residing outside the City of Waltham, the following procedure shall be followed:

1. The following information shall be logged in the Document Service Application: date of issue, docket number, defendant's name, issuing department, witness name, witness address, officer mailing subpoena, date to appear in court, and date of return of service.
2. When a subpoena is mailed to a witness, an entry in the Document Service Application shall indicate that it was mailed. The name of the officer mailing the subpoena shall be recorded as the officer making the return of service.
3. If circumstances require the subpoena to be delivered in hand, Records Unit personnel shall mail the subpoena to the police department where the witness resides. The department receiving the subpoena will serve it accordingly.
4. When a subpoena is returned to our department from another police jurisdiction, the following information shall be recorded in the Document Service Application: the date of service and the officer or department making service on the subpoena. Records Unit personnel shall then return the subpoena to court.

II. ABUSE ORDERS [74.2.1]

1. When an abuse order is received by this department, the Records Unit personnel shall record the following information in the Restraining Order application:
 - a. Name and address of the defendant;
 - b. Department or court issuing the order;
 - c. Violation;
 - d. Date of court appearance;
 - e. If mailed to another jurisdiction, name of department and date mailed.
2. A copy of the abuse order shall be placed online and in the abuse order notebook in the records unit.
3. If the abuse order is to be served on a Waltham resident:

- a. The Records Unit personnel, or receiving office if Records is closed, shall then attach Legal Document Service Report form (74-2) to the abuse order and deliver the original and the defendant's copy to the Commanding Officer - Platoon on Duty, who shall see that they are served without delay.
- b. Officers shall make a concerted effort to serve the abuse order and obtain a new address if necessary for service. Officers who are successful in serving the abuse order shall make the return on the back of the original abuse order. The Commanding Officer - Platoon on Duty or his designee shall scan the document to the applicable WPD Share Folder. The original order will be returned to the Records Unit personnel. Abuse Orders shall be filed alphabetically, by the **DEFENDANT'S LAST NAME**. The entry in the Restraining Order Application will be completed with the name of the officer making service and the date of service. A copy of the abuse order will be made and placed in the Abuse Order Notebook in the Records Division. The Original Abuse Order will then be returned to the originating agency or court.
- c. Officers that are unsuccessful in serving the abuse order shall, prior to the end of their shift, turn the abuse order into the Commanding Officer - Platoon on Duty for further attempts at service. It should be placed in the "Abuse Orders Unable to Serve" tray, which is located at the Operations Patrol Supervisor's desk. The Legal Document Service Report shall be completed accordingly. After a reasonable number of attempts or after determining that the defendant has vacated the premises, the abuse order shall be returned to the Records Unit. The Records Unit personnel shall make diligent efforts to obtain the necessary information for service of the order. In any case, the abuse order shall be returned to operations for further attempts of service. If further attempts fail, the order shall be kept in the UNABLE to Serve tray in the operations area.

K. ABUSE ORDERS ISSUED BY WALTHAM DISTRICT COURT FOR SERVICE OUTSIDE OF WALTHAM.[74.2.1]

- 1. Upon receipt of an Abuse Order for service outside of Waltham, the Records Unit personnel shall place copies of the abuse order in the abuse order notebooks located in the Records Unit.
- 2. Records Unit personnel will then note the following information in the Restraining Order Application: date received by our department, name and address of defendant, department mailed to, violation, court date, and date mailed.

3. When the abuse order is returned from the department to which it was mailed, the following information will be recorded in the Restraining Order Application: officer making service and return of service date. The order shall then be returned to court.
 4. A copy of the abuse order will then be scanned into the applicable wpd Share Folder.
- L. All legal processes (summons's, abuse orders, and subpoenas for witness) that are issued, a receipt from the Records Clerk for the officer to indicate the attempts for service shall be completed. Upon completion, the receipt goes back to the Records Clerk who now scans the receipt with the actual document and continues to file the documents accordingly. [74.1.1, 74.1.2]